

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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NEVADA DEPARTMENT OF
CORRECTIONS,

Plaintiff,

v.

RUSSELL COHEN,

Defendant.

03:07-CV-00266-LRH-RAM

ORDER

Presently before the court is a Motion to Alter or Amend the Judgment (# 55¹) filed by Michael Angelo Drake ("Drake"). The Nevada Department of Corrections has filed a response (# 61).

Drake's motion seeks review of the Magistrate Judge's January 30, 2008, Order (# 53) denying Drakes's motion to intervene. The court will construe this pro se litigant's motion liberally as an objection to the magistrate judge's order. The standard for this court's review of a magistrate judge's decision depends on whether the matter is dispositive or nondispositive. *See* Fed. R. Civ. P. 72; 28 U.S.C. § 636. A motion to intervene is nondispositive. *Perles v. Kagy*, 394 F.Supp.2d 68, 70 n.6 (D. D.C. 2005); *United States v. W.R. Grace & Co.-Conn.*, 185 F.R.D. 184 (D. N.J. 1999); *United States v. Certain Real Property known as 1344 Ridge Rd.* 751 F.Supp. 1060

¹Refers to the court's docket number.

1 (E.D.N.Y. 1989); *but see New York Chinese TV Programs, Inc. v. U.E. Enters., Inc.*, 996 F.2d 21,
2 23 (2d Cir. 1993); *Sunbelt Veterinary Supply, Inc. v. Int'l Bus. Systems United States, Inc.*, 200
3 F.R.D. 463, 465 (M.D. Al. 2001). In reviewing a nondispositive order entered by a magistrate
4 judge, the court defers to the magistrate judge unless the order is clearly erroneous or contrary to
5 law. Fed. R. Civ. P. 72(a); *Grimes v. City & County of San Francisco*, 951 F.2d 236, 241 (9th Cir.
6 1991).

7 In this case, the magistrate judge correctly identified the appropriate standard for a motion
8 to intervene and determined that Drake did not demonstrate that his interests were not adequately
9 represented by the existing parties. This decision is neither contrary to law nor is it clearly
10 erroneous. Drake has not shown that the current parties will not or are incapable of making
11 Drake's legal arguments or that Drake would add some necessary element to the proceedings. *See*
12 *Blake v. Pallan*, 554 F.2d 947, 954-55 (9th Cir. 1977).

13 IT IS THEREFORE ORDERED that Drake's Motion to Alter or Amend the Judgment (#
14 55) is hereby DENIED.

15 IT IS SO ORDERED.

16 DATED this 8th day of May, 2008.



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19 LARRY R. HICKS
20 UNITED STATES DISTRICT JUDGE
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